



CITY OF SAN JOSÉ, CALIFORNIA

SAN JOSÉ, CALIFORNIA

TUESDAY, SEPTEMBER 27, 2005

The Council of the City of San José convened in regular session at 1:34 p.m. in the Council Chambers. Closed Session was canceled.

Present: Council Members - Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Yeager.

Absent: Council Members - Campos, Williams; Gonzales. (Excused)

INVOCATION

Reverend Ellen Grace O'Brien, The Center of Spiritual Enlightenment. (District 8)

PLEDGE OF ALLEGIANCE

Vice Mayor Chavez led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member LeZotte, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (8-0-3. Absent: Campos, Williams; Gonzales.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Hawaiian Airlines. (Airport)

Action: Vice Mayor Chavez, Council Member Reed and Director of Aviation William Sherry presented a commendation to Hawaiian Airlines extending a warm welcome to the family of airlines at the San José Mineta International Airport and announcing nonstop service to Hawaii.

1.2 Presentation of a commendation to the Eastern European Service Agency for 10 years of continued success in helping Eastern European refugees and immigrants become independent members of American society. (LeZotte)

Action: Vice Mayor Chavez and Council Member LeZotte presented a commendation to the Eastern European Service Agency for 10 years of continued success in their endeavors.

**1.3 Presentation of a commendation to Frederick J. Ferrer, in recognition of his more than 19 years of dedication and exemplary service as Executive Director of Estrella Family Services. (Yeager)
(Rules Committee referral 9/21/05)**

Action: Vice Mayor Chavez and Council Member Yeager recognized and commended Mr. Frederick J. Ferrer for his dedication and exemplary service as Executive Director of Estrella Family Services.

CONSENT CALENDAR

Upon motion by Council Member Reed, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.2 (a) ORD. NO. 27539 – Rezoning certain real property situated on the northwest corner of the Alameda and North Morrison Avenue (955 The Alameda) to CP Commercial Pedestrian Zoning District. C05-084

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 20, 2005, submitted by the City Clerk.

Action: Ordinance No. 27539 was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

(b) ORD. NO. 27540 – Rezoning certain real property situated on the south side of Moorpark Avenue approximately 100 feet east of Clover Avenue (2830 Moorpark Avenue) to A(PD) Planned Development Zoning District. PDC05-062

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 20, 2005, submitted by the City Clerk.

Action: Ordinance No. 27540 was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.2 (c) **ORD. NO. 27541 – Rezoning certain real property situated the north side of Tully Road, approximately 90 feet easterly of Lanai Avenue (1605 Tully Road) to CN Commercial Neighborhood Zoning District. C05-054**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 20, 2005, submitted by the City Clerk.

Action: Ordinance No. 27541 was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- (d) **ORD. NO. 27542 – Rezoning certain real property situated on the southwesterly corner of Capital Avenue and Autumnvale Avenue and the northeasterly corner of Autumnvale Drive and Trade Zone Boulevard (2450 Autumnvale Drive) to A(PD) Planned Development Zoning District. PDC04-109**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 20, 2005, submitted by the City Clerk.

Action: Ordinance No. 27542 was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- (e) **ORD. NO. 27543 – Rezoning certain real property situated at the south side of Neal Avenue, approximately 245 feet east of South Winchester Boulevard (3030-3040 Neal Avenue) to A(PD) Planned Development Zoning District. PDC05-058**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 20, 2005, submitted by the City Clerk.

Action: Ordinance No. 27543 was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- (f) **ORD. NO. 27544 – Rezoning certain real property situated on the south side of Curtner Avenue, approximately 250 feet westerly of Joseph Avenue (482 Curtner Avenue) to A(PD) Planned Development Zoning District. PDC05-038**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 20, 2005, submitted by the City Clerk.

Action: Ordinance No. 27544 was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.3 Approval of an ordinance amending Section 4.24.010 of Chapter 4.24 of Title 4 of the San José Municipal Code to authorize the City Attorney to compromise and settle claims related to sanitary sewer backup intrusions in which the amount to be paid by the City does not exceed \$25,000. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated September 16, 2005, recommending approval of an ordinance.

Action: Ordinance No. 27554, entitled: "An Ordinance of the City of San José Amending Section 4.24.010 of Chapter 4.24 of Title 4 of the San José Municipal Code to Authorize the City Attorney to Compromise and Settle Claims Related to Sanitary Sewer Backup Intrusions in Which the Amount to be Paid by the City does not Exceed Twenty Five Thousand Dollars (\$25,000.00)", passed for publication. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.4 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) Increase the appropriation for the King and Story Road Improvements Project (PSM 221#7) to the Department of Transportation by \$310,000.**
 - (2) Increase the appropriation for the Tree Planting in Strong Neighborhoods Project (PSM 334#1) to the Department of Transportation by \$37,500.**
 - (3) Increase the appropriation for the NBD's Banner Program Project (PSM 378#1) to the Department of Transportation in the amount of \$10,000.**
 - (4) Establish an appropriation to the Department of Transportation for the Additional Contingency Services Project (PSM 417) in the amount of \$30,000.**
 - (5) Establish an appropriation to the Department of Transportation for the Sidewalk, Curb, Gutter & ADA Ramp Project (PSM 418) in the amount of \$200,000.**
 - (6) Increase the estimate for Earned Revenue by \$587,500.**
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Sidewalk, Curb, Gutter & ADA Ramp Project, as more specifically described in the memorandum from the Redevelopment Agency, dated August 12, 2005.**

CEQA: King and Story Road Improvements: Mitigated Negative Declaration, PP02-017. Tree Planting: Exempt, PP03-365. NBD's Banner Program: Not a Project. Additional Contingency Services: Not a Project. Sidewalk, Curb, Gutter and ADA Ramp: Not a Project. Council District 3, 5, and 7. SNI: East Valley/680 Communities, K.O.N.A., and Edenvale/Great Oaks. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated September 7, 2005, recommending adoption of appropriation ordinance, funding sources resolution amendments and resolution.

2.4 (Cont'd.)

Council Member LeZotte asked for confirmation why the Blackford SNI was not included. Assistant City Manager Mark Linder replied there was a typographical error and added that Blackford is on the list.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, Ordinance No. 27555; Resolution No. 72902, and Resolution No. 72903, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the East Valley/680 Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.5 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with artist Barbara Grygutis for the fabrication and installation of a public artwork at Edenvale Garden Park, in an amount not to exceed \$120,000. CEQA: Negative Declaration, PP90-03-078. Council District 2. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated September 7, 2005, recommending adoption of a resolution.

Action: Resolution No. 72904, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Barbara Grygutis for a Work of Art for Edenvale Garden Park in an Amount Not To Exceed \$120,000", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.6 (a) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with SST Benefits Consulting for City-paid employee benefits insurance broker services, for the period October 1, 2005 through September 30, 2009. CEQA: Not a Project. (Employee Services)** (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Derendinger Insurance Agency for employee-paid employee benefits insurance broker services, for the period October 1, 2005 through September 30, 2009. CEQA: Not a Project. (Employee Services)**

Documents Filed: Memoranda from Director Employee Services Mark Danaj, both dated September 7, 2005, recommending adoption of resolutions.

Action: Resolution No. 72905, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with SST Benefits Consulting for Employee Benefits Insurance Broker Services for the Period From October 1, 2005 through September 30, 2009", and Resolution No. 72906, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Derendinger Insurance Agency for Employee Benefits Insurance Broker Services for the Period From October 1, 2005 through September 30, 2009", were adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.7 Adoption of a resolution authorizing the Director of the Environmental Services Department to submit an application to the Bay Area Air Quality Management District (BAAQMD), Solid Waste Collection Vehicle Incentives, in the amount of \$483,000, to accept the grant on behalf of the City of San José, and to execute all documents necessary to implement the grant. CEQA: Negative Declaration, PP92-05-98. (Environmental Services)**

Documents Filed: Acting Director Environmental Services John Stuffelbean, dated September 14, 2005, recommending adoption of a resolution.

Action: Resolution No. 72907, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Submit an Application to the Bay Area Air Quality Management District for Funds to Reduce Emissions from Solid Waste Collection Vehicles and Authorizing the Director to Execute a Funding Agreement if the Application is Approved by the Bay Area Air Quality Management District", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.8 Adoption of a resolution authorizing the City Manager to submit a grant application to the Bay Area Air Quality Management District (BAAQMD) and all necessary documentation to apply for a grant to support a pilot program to retrofit 18 diesel powered heavy trucks to reduce diesel particulate emissions, in an amount not to exceed \$206,550 with a required local match of \$22,950. CEQA: Not a Project. (General Services)**

Documents Filed: Replacement memorandum from Interim Director of General Services Peter Jensen, dated September 15, 2005, recommending adoption of a resolution.

Action: Resolution No. 72908, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Application to the Bay Area Air Quality Management District (BAAQMD) and All Necessary Documentation to Apply for a Grant to Support a Pilot Program to Retrofit Eighteen (18) Diesel powered heavy trucks to Reduce Diesel Particulate Emissions, in an Amount Not To Exceed \$206,550 with a Required Local Match of \$22,950", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.9 (a) Approval of business travel request for Barbara Attard, Independent Police Auditor, to attend the Annual Conference of NACOLE (The National Association of Civilian Oversight of Law Enforcement) in Miami, Florida, October 20-26, 2005, at no cost to the City.**
(b) Ratification of completed business travel for Barbara Attard, Independent Police Auditor, to attend the annual winter meeting of the Board of NACOLE in Miami, Florida, February 4-7, 2005, at no cost to the City.
(Independent Police Auditor)
(Rules Committee referral 9/14/05)

Documents Filed: Memorandum from Independent Police Auditor Barbara Attard, dated September 13, 2005, recommending approval of the requests.

2.9 (Cont'd.)

Action: The travel requests were approved. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.10 Adoption of a resolution initiating proceedings and setting October 18, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Cambrian No. 34 which involves the annexation to the City of San José of 0.70 acres of land more or less, located on the east side of Bercaw Lane, approximately 450 feet southerly of Camden Avenue, and adjacent to the City of San José annexations Cambrian Nos. 27 and 8 and the detachment of the same from Central Fire Protection, Area No.01 (Library Services) County Services, County Lighting County Services and West Valley Sanitation. CEQA: Resolution No. 65459, File No. C05-044. Council District 9. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated September 7, 2005, recommending adoption of a resolution.

Action: Resolution No. 72909, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Cambrian No. 34 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 2.11 (a) Report on bids and award of contract for the Norman Y. Mineta San José International Airport Airfield Sign Replacement Project to the lowest responsive bidder, Vellutini Corporation dba Royal Electric Company in the amount of \$351,470 and approval of a contingency in the amount of \$35,150.**
- (b) Adoption of the following appropriation ordinance amendments in the Airport -Capital Improvement Fund:**
- (1) Establish the Airfield Sign Replacement appropriation in the amount of \$438,000.**
- (2) Decrease the Ending Fund Balance by \$438,000.**
- (c) Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:**
- (1) Establish the Airfield Sign Replacement appropriation in the amount of \$44,000.**
- (2) Decrease the Ending Fund Balance by \$44,000.**

CEQA: Resolution Nos. 67380 and 71451, PP05-123. (Public Works/Airport/City Manager's Office)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Director of Aviation William Sherry and Budget Director Larry Lisenbee, dated September 13, 2005, recommending approval of the contract, and adoption of appropriation ordinance amendments. (2) Supplemental memorandum from Director Allen, dated September 20, 2005, transmitting additional information.

2.11 (Cont'd.)

Action: The contract with Vellutini Corporation dba Royal Electric Company with related contingency, was approved, Ordinance No. 27556 and Ordinance No. 27557 were adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.12 Report on bids and award of contract for the 2005 Wheelchair Ramp Project to the low bidder Valley Concrete and Redwood Inc., in the amount of \$496,497 and approval of a contingency in the amount of \$24,825, for a total contract amount not to exceed \$521,322. CEQA: Exempt, File No. PP05-064. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated September 7, 2005, recommending award of the contract.

Public Comment: Ross Signorino asked Staff how many wheelchair ramps are being proposed. Director of Transportation James Helmer responded that there will be approximately 305 wheelchair ramps installed throughout the City.

Action: Upon motion by Council Member Yeager, seconded by Council Member Cortese and carried unanimously, the award of the contract to Valley Concrete and Redwood Inc. was approved. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.13 Approval of two replacements to the Evergreen East Hills Vision Strategy Task Force. Council Districts 5, 7, and, 8. SNI: KONA, West Evergreen, and EastValley/680. CEQA: Exempt, PP03-10-349. (Planning, Building and Code Enforcement) (Rules Committee referral 9/21/05)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated September 22, 2005, recommending approval of two replacements.

Action: The two replacements were approved. (8-0-3. Absent: Campos, Williams; Gonzales.)

2.14 Adoption of a resolution initiating a rezoning, pursuant to the provisions of the San José Municipal Code 20.120.010 of the real property located along Schiele Avenue, Harding Avenue and Pershing Avenue, west of the Alameda and east of Stockton Avenue from R-2 Residence, CO Commercial Office and CN Commercial Neighborhood, to R-1 Residence, setting public hearing dates for the proposed ordinance and referring the proposed ordinance to the Planning Commission for its report and recommendation. Council District 6. CEQA: Resolution No. 65459. (Yeager). (Rules Committee referral 9/21/05)

Documents Filed: Memorandum from Council Member Yeager, dated September 21, 2005, recommending approval of the rezoning.

2.14 (Cont'd.0

Action: Resolution No. 72910, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on its Own Motion Pursuant to the Provisions of Section 20.120.010 to Rezone Certain Real Property Setting a Public Hearing Thereon, and Referring the Proposed Rezoning to the Planning Commission for Report or Recommendation", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 14, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated September 14, 2005.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review September 27, 2005 Draft City Council Agenda

The Committee recommended approval of the September 27, 2005 City Council Agenda.

(2) Add New Items to September 20, 2005 City Council Agenda

The Committee recommended approval of eight additions to the September 20, 2005 City Council Agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager dated September 13, 2005, transmitting reports outstanding for September 20, 2005.

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

3.2 Report of the Rules Committee – September 14, 2005 (Cont'd.)
Vice Mayor Chavez, Chair

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated September 7, 2005, transmitting items for public record and administration for the period of August 31 – September 6, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees

There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Status of the Revision to the Definition of Surviving Child

Director of Employee Relations Alex Gurza informed the Committee that the Revision to the Definition of Surviving Child negotiations has not been resolved and are ongoing. The Committee directed Staff to return to the Committee with a memorandum referring the revision to the Definition of Surviving Child to the City Council without triggering the “Me Too” clause.

- (2) Approval of Travel by Council Member Campos to Washington, D.C. Attachment: Memorandum from Council Member Campos, dated September 7, 2005, requesting approval to travel.

The Committee recommended approval to travel.

- (3) Payment Performance Bond Program for Small Business Contractors Workload Assessment. Attachment: Memorandum from Council Member Cortese, dated August 30, 2005, recommending the City Manager’s Office to perform a work load assessment.

Council Member Cortese explained the Payment for Performance Bond Program for the Small Business Contractors. Matt Kamkar, Chair of the Small Business Development Commission, stated that this program would increase the pool of qualified applicants and allow more small businesses to compete for City contracts. The Committee recommended that the Small Business Commission work with the Office of Economic Development and return in 30 days to provide a work load assessment, which would include overall savings and prequalification strategies.

3.2 Report of the Rules Committee – September 14, 2005 (Cont'd.) Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)

- (4) Meghan's Law Discussion. Attachment: Memorandum from Vice Mayor Chavez, dated September 13, 2005, recommending the City Manager's Office perform a work load assessment.

The Committee recommended that Staff in Housing and Intergovernmental Relations be included in the recommended Task Force participants list and that Staff return to the Rules Committee in one week to provide the Task Force work load assessment.

- (5) Approval of Travel by Council Member Reed to Denver, Colorado. Attachment: Memorandum from Council Member Reed, dated September 1, 2005, requesting approval of travel.

The Committee recommended approval to travel and use of the Mayor and Council Travel Fund.

- (h) Oral Communications - There were none presented.

- (i) Adjournment - The meeting was adjourned at 2:30 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the Rules Committee Report and the actions of September 14, 2005, were accepted. (8-0-3. Absent: Campos, Williams; Gonzales.)

3.3 Report of the Making Government Work Better Committee – September 15, 2005 Council Member Reed, Chair

Documents Filed:

- (a) Quarterly Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated September 2, 2005, transmitting the report.

The Committee accepted the report.

- (b) Quarterly Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated September 2, 2005, transmitting the report.

The Committee accepted the report.

3.3 Report of the Making Government Work Better Committee – September 15, 2005 Council Member Reed, Chair

- (c) Request for Proposal Procedures and Other Procurement Reforms. Attachment: Memorandum from Director of Finance Scott Johnson, dated September 8, 2005, transmitting the report.

Director of Finance Scott Johnson requested deferring this item; due to loss of quorum the presentation on this item was not able to be completed and will be scheduled for October. Deputy City Manager Kay Winer recommended that should this item be brought back in October, that the Airport's Marketing and Usage at the Compressed Natural Gas Facility be deferred for a month.

- (d) Extension of Vehicle Replacement Freeze. Attachment: Memorandum from City Auditor Gerald Silva, dated August 30, 2005, transmitting the report.

The Committee accepted the report.

- (e) 2005-2006 Marked Patrol Sedan Budget Reduction. Attachment: Memorandum from City Auditor Gerald Silva, dated August 30, 2005, transmitting the report.

The Committee accepted the report.

- (f) Public Works Contract Streamlining Policy Recommendation. Memorandum from Director of Public Works Katy Allen, dated September 2, 2005, transmitting the report.

The Committee accepted the report. The report will be cross referenced for Council at a later date.

- (g) Update on Northside Community Center Operations. Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley and City Auditor Gerald Silva, dated September 7, 2005, transmitting the report.

The Committee recommended that Staff report back on October 20, 2005 with a financial analysis of cash flow and operations, and cost of maintaining the building as opposed to programming.

- (h) Oral Petitions

The Committee heard comments from the public.

- (i) Adjournment - The meeting was adjourned at 3:50 p.m.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle and carried unanimously, the Making Government Work Better Committee Report and the actions of September 15, 2005, were accepted. (8-0-3. Absent: Campos, Williams; Gonzales.)

- 3.4 (a) Adoption of a resolution as follows:**
- (1) Authorizing the Director of Finance to negotiate and execute a Second Amendment to the Agreement for an Integrated CIS and Hauler Management System between the City of San José and BearingPoint, Inc. increasing the total maximum compensation (including previously approved contract amendment and contingency) of \$4,657,182 by \$2,649,392 for a total maximum compensation not to exceed \$7,306,574 (including all contract contingencies), to:**
 - (a) Develop and assist the City with the implementation of a Change Management Plan for the integration of Municipal Water, RecyclePlus, Storm and Sanitary Sewer Utility services and their related call centers; increasing the total maximum compensation by \$963,612; and increasing the contract contingency by \$96,400;**
 - (b) Implement a Hauler Integration solution with the City's haulers and landfills for the City's Consolidated Utility Billing System; increasing the total maximum compensation by \$194,880; and increasing the contract contingency by \$19,500; and**
 - (c) Implement limited Customer Relationship Management (CRM) functionality that would integrate the City's utility call centers with the Customer Service Call Center functions, including additional e-Government functionality to the Consolidated Utility Billing System; increasing the total maximum compensation by \$1,250,000, and increasing the contract contingency by \$125,000; and**
 - (2) Authorizing the Director of Finance to execute change orders up to the total amount available in the Project contingency, the original BearingPoint contract contingency, and all additional BearingPoint contract contingency amounts approved by Council to-date for Stage 1 and Stage 2 BearingPoint contracts.**
- (b) Report on bids and award the purchase of Sun Server Equipment, Clustering, Software, Installation, Set-up, and 5-year Extended Maintenance for the production server system to support the Consolidated Utility Billing Project, to the sole bidder, Helio Solutions at a total cost of \$643,790.75 for the base bid and three add alternate items, a 10% contingency, tax, freight, installation, set-up, the first year of five years for extended maintenance, service and support with the option to extend the initial maintenance, service and support term for four additional years and authorize the Director of Finance to:**
- (1) Execute the purchase order for the immediate purchase of the Sun Application and Database Server, External Web Server, Failover Server, Clustering, Software, Delivery, Installation, Set-up, First year of Extended Maintenance Service, and sales tax in the amount of \$585,264.34.**

(Item continued on the next page)

- 3.4 (b) (2) Execute purchase orders for additional equipment, software and maintenance/support utilizing the authorized contingency of \$58,526.41 without further Council action.
- (3) Execute the options to purchase four additional one-year periods of maintenance, service and support for purchased equipment and software at a total of \$147,741.21, without further Council action other than appropriation of funds; and
- (4) Execute a purchase order for additional quantities of equipment and software licenses on an as-required basis at the same unit price for a period of twelve months after the initial award is placed, without further Council action other than appropriation of funds.
- (c) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments to fund the Consolidated Utility Billing System including implementation of CRM, change management, a hauler interface, training, hardware, and staffing :
- (1) Increase the estimate for Earned Revenue in the Integrated Waste Management Fund by \$7,844,636.
- (2) Increase the CUSP Project appropriation in the Integrated Waste Management Fund by \$7,844,636.
- (3) Increase the Non-Personal/Equipment appropriation in the Environmental Services Department in the Integrated Waste Management Fund by \$214,380.
- (4) Decrease the Ending Fund Balance in the Integrated Waste Management Fund by \$214,380.
- (5) Decrease the Insurance Premiums appropriation in the Finance Department in the General Fund by \$600,000.
- (6) Establish a CUSP Project appropriation to the Finance Department in the General Fund in the amount of \$600,000.

CEQA: Not a Project. (Finance/City Manager's Office)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson and Budget Director Larry Lisenbee, dated September 14, 2005, recommending adoption of a resolution and appropriation ordinance and funding sources resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated September 21, 2005, providing additional information on the bid award for additional purchases.

Director of Finance Scott Johnson presented an overview of the Customer Relationship Management (CRM) Module of the Consolidated Utility Billing System.

Numerous Council questions followed relating to data storage and security, disaster recovery and costs.

Public Comment: William Garbett criticized the expenditure.

3.4 (Cont'd.)

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte and carried unanimously, the award of the purchase from Helio Solutions was approved, Resolution No. 72911, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Second Amendment to the Agreement for an Integrated CIS and Hauler Management System with Bearingpoint, Inc."; Ordinance No. 27558 and Resolution No. 72912 were adopted, with Staff directed to circulate an information memorandum outlining a scope of work for secure, off-site data storage, including a time frame. (8-0-3. Absent: Campos, Williams; Gonzales.)

3.5 **Adoption of a resolution supporting AB772 (CHAN) which would enact the California Healthy Kids Insurance Program that would provide health care coverage for all children in California. (Chavez)** **(Rules Committee referral 9/21/05)**

Documents Filed: Supplemental memorandum from Director Intergovernmental Relations Betsy Shotwell, dated September 26, 2005, recommending adoption of a resolution in support.

Public Comment: Speaking in support of AB772 were Susan Price-Jang, Donna Furuta, Rosario Purtida, PACT, Craig Walsh, Santa Clara Family Health Plan, Philip Bump, South Bay AFL-CIO Labor Council and Sarah Muller, Working Partnerships USA.

Action: Upon motion by Council Member Chirco, seconded by Council Member Reed, and carried unanimously, Resolution No. 72913, entitled: "A Resolution of the Council of the City of San José Supporting AB772 (CHAN) Which Would Enact the California Healthy Kids Insurance Program", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 (a) **Approval of an ordinance amending land use regulations pertaining to off-sale of alcoholic beverages, to set forth elements for consideration in a liquor license exception process, and to amend the locational criteria for off-sale of alcoholic beverage uses;**
- (b) **Consideration of the repeal of the provisions pertaining to gasoline service station combined uses, and amendments to distinguish off-sale of beer and wine uses from off-sale of all types of alcohol uses.**
- (Planning, Building and Code Enforcement/Police)**
(Rules Committee deferral 8/17/05 and 9/14/05)

Action: Deferred to October 4, 2005. To be heard in the evening.

4.4 Public Hearing on and consideration of adoption of a resolution on a Historic Landmark Designation for the Curtis House, located at/on the southeast corner of East San Antonio Street and South 17th Street (254 South 17th Street). The Historic Landmarks Commission recommends the City Council adopt a resolution designating the Curtis House located at 254 South Seventeenth Street as Historic Landmark No. HL05-152. CEQA: Exempt. (Planning, Building and Code Enforcement)
HL05-152 - District 3

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary Stephen Haase, dated September 8, 2005, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 26, 2005, submitted by the City Clerk. (3) Affidavit of Routing executed on September 27, 2005, and distributed by the City Clerk.

Public Comment: Vice Mayor Chavez opened the Public Hearing on the Historic Landmark Designation, and there was no testimony from the floor. Vice Mayor Chavez closed the Public Hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte and carried unanimously, Resolution No. 72914, entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Curtis House, Located at 254 South Seventeenth Street, as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

4.5 Public Hearing on and consideration of adoption of a resolution on a Historic Landmark Designation for the Dennis House located at 237 Autumn Street. The Historic Landmarks Commission recommends the City Council adopt a resolution designating the Dennis House located at 237 North Autumn Street as Historic Landmark No. HL05-153. CEQA: Exempt. (Planning, Building and Code Enforcement)
HL05-153 - District 3

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary Stephen Haase, dated September 8, 2005, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 26, 2005, submitted by the City Clerk. (3) Affidavit of Routing executed on September 27, 2005, and distributed by the City Clerk.

Public Comment: Vice Mayor Chavez opened the Public Hearing on the Historic Landmark Designation, and there was no testimony from the floor. Vice Mayor Chavez closed the Public Hearing.

4.5 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member LeZotte and carried unanimously, Resolution No. 72915, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Dennis House, Located at 237 Autumn Street, as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

4.6 Public Hearing on the Historic Property Contract (California Mills Act) between the City and property owners for preservation of John C. Morrill House (City Landmark No. HL05-151) on a 0.29 gross acre site, located at 897 Jackson Street, at/on the northwest corner of Jackson Street and North 19th Street (Thacker Eric at al, owner) and adoption of a resolution approving the contract. The Historic Landmarks Commission recommends that the City Council approve a historical property contract for the John C. Morrill House—City Landmark No. HL05-151. CEQA: Exempt. (Planning, Building and Code Enforcement) MA05-001 - District 3

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary Stephen Haase, dated September 8, 2005, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 26, 2005, submitted by the City Clerk.

Public Comment: Vice Mayor Chavez opened the Public Hearing on the Historic Landmark Designation, and there was no testimony from the floor. Vice Mayor Chavez closed the Public Hearing.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, Resolution No. 72916, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Eric Thacker and Philip Ho for The John C. Morrill House (City Landmark No. HL05-151, Formerly Known as the Briar Rose Inn)”, was adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

NEIGHBORHOOD SERVICES

5.2 Approval of the application process, evaluation criteria, and policies for the 2006-2007 Healthy Neighborhoods Venture Fund application cycle. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated September 7, 2005, recommending approval.

5.2 (Cont'd.)

Council discussion followed regarding the evaluation criteria and the need to identify gaps in service. Assistant City Manager Mark Linder provided a brief update regarding on-going work to prepare a Gap Analyses. Vice Mayor Chavez suggested Staff inform applicants about other grant funding opportunities, such as BEST, and CDBG.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the application process, evaluation criteria and policies for the 2006 HNVF application cycle were approved, with Staff directed to consider ways to better inform applicants about other grant programs within in the City (i.e. BEST, CDBG). (8-0-3. Absent: Campos, Williams; Gonzales.)

5.3 Council discussion of the conditions of City swimming pools. (Parks, Recreation and Neighborhood Services) (Rules Committee deferral 9/14/05)

Action: Deferred to October 4, 2005.

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – September 12, 2005 Council Member Campos, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Discussion of Local Transportation Funding Needs and Strategies
 - (2) Progress Report on the Proposed Electronic Transportation Development Center
 - (b) Traffic Relief/Safe Streets
 - (c) Supporting Smart Growth
 - (1) Post Event Report on San José Grand Prix Traffic and Parking Management
 - (d) Regional Relationships/Funding/Policy
 - (e) Oral Petitions
 - (f) Adjournment
- (Rules Committee deferral 9/14/05)

Action: Deferred to October 4, 2005.

6.2 Report on bids and award contract for the Norman Y. Mineta San José International Airport-USO/Parking Revenue Control Modular Offices (Revised) contract to the lowest responsive bidder, Pacific Mobile Structures, Inc. in the amount of \$675,427.33, and approval of a contingency in the amount of \$68,000. CEQA: Resolutions No. 67380 and 71451, PP 05-075. (Public Works/Airport) (Deferred from 8/30/05 – Item 6.2)

Action: Deferred to October 4, 2005.

- 6.3 (a) **Report on bids and award of contract for the Norman Y. Mineta San José International Airport - Renzel Airfield Improvements 2005 Project to the low bidder, R & L Brosamer, Inc., in the amount of \$31,920,000 and approval of contingency in the amount of \$3,856,000.**
- (b) **Adoption of the following appropriation ordinance amendments in the Airport Capital Improvement Fund:**
- (1) **Increase the Taxiway Z Alignment appropriation in the amount of \$1,812,000.**
 - (2) **Establish the Taxiway Y Reconstruction appropriation in the amount of \$11,942,000.**
 - (3) **Decrease the Ending Fund Balance by \$13,754,000.**
- (c) **Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:**
- (1) **Increase the Taxiway Z Alignment appropriation in the amount of \$473,000.**
 - (2) **Increase the Utility Infrastructure appropriation in the amount of \$606,000.**
 - (3) **Decrease the Ending Fund Balance by \$1,079,000.**
- (d) **Adoption of the following appropriation ordinance amendment in the Airport Passenger Facility Charge Fund:**
- (1) **Decrease the Taxiway Y Reconstruction appropriation by \$11,942,000.**
 - (2) **Increase the Ending Fund Balance by \$11,942,000.**

CEQA: Resolutions No. 67380 and 71451, PP 05-105. (Public Works/Airport/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Aviation William Sherry and Budget Director Larry Lisenbee, dated September 13, 2005, recommending approval of the contract, and adoption of appropriation ordinance amendments.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the contract with R & L Brosamer, Inc. was approved, and Ordinance No. 27559; Ordinance No. 27560 and Ordinance No. 27561 were adopted. (8-0-3. Absent: Campos, Williams; Gonzales.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Conduct a Public Hearing and approval of an ordinance to establish a combination Rule 20A and In-Lieu Fee (Rule 20B) Underground Utility District on Taylor Street from First Street to Tenth Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street; and Sixth Street from Taylor Street to Empire Street. CEQA: Exempt, PP05-148. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 7, 2005, recommending approval of an ordinance.

Public Comment: Vice Mayor Chavez opened the Public Hearing and there was no testimony from the floor. Vice Mayor Chavez closed the Public Hearing.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Cortese and carried unanimously, Ordinance No. 27562, entitled: "An Ordinance of the City of San José Establishing Combination Rule 20/In-Lieu Fee (Rule 20B) Underground Utility District on Taylor Street from First Street to Tenth Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street, and Sixth Street from Taylor Street to Empire Street", was passed for publication. (8-0-3. Absent: Campos, Williams; Gonzales.)

OPEN FORUM

- (1) Ross Signorino played an audiotope of radio station KLIV coverage of a recent announcement that the City of San José is one of 100 best communities nationally for youth education.
- (2) Mark Trout voiced his own religious views.

ADJOURNMENT

The Council of the City of San José was adjourned at 3:12 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/9-27-05MIN